

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:99-00155-02

MARGORETTI RUCKER

MEMORANDUM OPINION AND ORDER

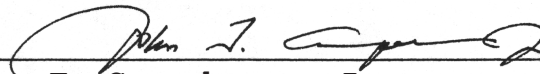
Pending is defendant's "Motion Under 18 U.S.C. 3582(c) (2), For Reduction of Sentence Pursuant to Amendment 9 [sic] of the United States Sentencing Guidelines[,]" submitted to chambers on April 11, 2008 ("second motion to modify sentence").¹ The second motion to modify sentence is based upon the November 1, 2007, amendment to U.S.S.G. § 2D1.1, which the United States Sentencing Commission made retroactive effective March 3, 2008.

On December 31, 2007, defendant filed a letter-form motion to modify sentence ("first motion to modify sentence"). On March 26, 2008, the court entered a memorandum opinion and order denying the first motion to modify sentence based upon defendant's career offender status. United States v. Rucker, No. 99-00155-02, slip op. at 2 (S.D. W. Va. Mar. 26, 2008). Inasmuch as defendant's second motion to modify sentence does not provide grounds for reconsideration of the March 26, 2008, memorandum opinion and order, the court ORDERS that the second motion to modify sentence be, and it hereby is, denied.

¹The Clerk is directed to file the second motion to modify sentence nunc pro tunc to April 11, 2008. Additionally, the reference to Amendment 9 appears to be a typographical error. Amendment 9 was effective June 15, 1988, and did not relate to cocaine base.

The Clerk is DIRECTED to send a copy of this written opinion and order to the defendant, the United States Attorney, the Federal Public Defender, and the United States Probation Office.

ENTER: May 12, 2008



John T. Copenhaver, Jr.
United States District Judge